

PUBLIC LANDS HIGHWAYS DISCRETIONARY PROGRAM PROGRAM INFORMATION

(March 2001)

BACKGROUND:

The Public Lands Highways (PLH) Program was originally established in 1930 by the Amendment Relative to Construction of Roads through Public Lands and Federal Reservations. Funding was provided from the General Fund of the Treasury. The intent of the program is to improve access to and within the Federal lands of the nation. The Federal-Aid Highway Act of 1970 changed the funding source for the program from the General Fund to the Highway Trust Fund, effective in FY 1972. The program has been continued with each highway or transportation act since then, and the latest transportation act, the Transportation Equity Act for the 21st Century (TEA-21, Public Law 105-178), has continued the program through FY 2003.

STATUTORY REFERENCES:

23 U.S.C. 202, 203 & 204; TEA-21 Section 1101(a)(8)(B)

FUNDING:

Fiscal Year	1998	1999	2000	2001	2002	2003
Authorization	\$66.6M	\$83.6M	\$83.6M	\$83.6M	\$83.6M	\$83.6M

TEA-21 provides \$196 million in FY 1998 and \$246 million in each of fiscal years 1999 through 2003 for Public Lands Highways. In accordance with 23 U.S.C. 202(a), 34 percent of these funds are available for the PLH discretionary program. For FY 1998, this is \$66.64 million, and for fiscal years 1999 through 2003, this is \$83.64 million per year.

This available funding is reduced by FHWA administration expenses, which may be up to 1.5 percent. The amount of available funding is also impacted by any obligation limitation imposed on the Federal-aid highway program under the provisions of TEA-21 Section 1102(f), Redistribution of Certain Authorized Funds. Under this provision, any funds authorized for the program for the fiscal year, which are not available for obligation due to the imposition of an obligation limitation, are not allocated for the PLH program, but are redistributed to the States by formula as STP funds. In accordance with 23 U.S.C. 204(i), these PLH funds are also available for administration expenses and transportation planning costs of Federal land management agencies.

After these reductions, it is expected that approximately \$65-\$70 million will be available for candidate projects each of fiscal years 2001 through 2003. Under the Revenue Aligned Budget Authority (RABA) provisions in TEA-21, this available funding may also increase or decrease each year depending on the estimated receipts to the Highway Trust Fund. For fiscal years 2000 and 2001, however, Congress modified the TEA-21 provisions in the appropriations acts for those years and the RABA increases were not available for the PLH program.

FEDERAL SHARE:

In accordance with 23 U.S.C. 204(b), the Federal share of the costs for any project eligible under this program is 100 percent.

OBLIGATION LIMITATION:

The PLH discretionary funds are subject to obligation limitation; however, 100 percent obligation authority is provided with the allocation of funds for the selected projects. The obligation limitation reduces the available funding for the program under the provisions of

TEA-21 Section 1102(f) discussed above.

ELIGIBILITY:

Under the provisions of 23 U.S.C. 202(b), the funds shall be allocated "among those States having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such States." Since all of the States have some Federal lands, all are eligible to apply for PLH discretionary funding.

In accordance with 23 U.S.C. 204(b), the PLH funds are available for "any kind of transportation project eligible for assistance under Title 23, United States Code, that is within, adjacent to, or provides access to the areas (Federal lands) served by the public lands highway." Under 23 U.S.C. 101(a)(25), a public lands highway "means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel." Federal reservations are considered to include lands owned by the Department of the Interior, Department of Agriculture, Department of Defense and other Federal agencies. An eligible project, therefore, must provide or improve access to Federal lands that are also served by a public lands highway.

The PLH funds are available for transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within the Federal public lands. Under 23 U.S.C. 204(h), eligible projects under the PLH program may also include the following, but they must meet the public lands highway criteria mentioned above:

1. Transportation planning for tourism and recreational travel, including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.
2. Adjacent vehicular parking areas.
3. Interpretive signage.
4. Acquisition of necessary scenic easements and scenic or historic sites.
5. Provision for pedestrians and bicycles.
6. Construction and reconstruction of roadside rest areas, including sanitary and water facilities.
7. Other appropriate public road facilities such as visitor centers.
8. A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.

In addition, 23 U.S.C. 134(d)(3), as amended by TEA-21 Section 1203, provides that up to "1 percent of the funds allocated under 23 U.S.C. 202 may be used to carry out the transportation planning process for the Lake Tahoe region," and that highway projects included in these transportation plans "may be funded using funds allocated under 23 U.S.C. 202." Applications for

the highway projects included in these plans, therefore, could also be submitted requesting PLH discretionary funding.

SELECTION CRITERIA:

The following criteria are used to evaluate the submitted candidates for selection.

The only statutory criterion is found in 23 U.S.C. 202(b): "The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities which are proposed by a State which contains at least 3 percent of the total public lands in the Nation." The following eleven States have at least 3 percent of the nation's Federal public lands: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, and Wyoming.

FHWA has not established regulatory criteria for selection of PLH discretionary projects; however, in its annual solicitation, FHWA notes that the following criteria are also considered in the evaluation of candidates for this program:

1. Equitable distribution of funding among the States - In applying this criterion, the PLH discretionary funding distributed over the past 20 years is considered and two factors are used to determine a State's fair share of this distribution: (1) the State's share of the Nation's Federal public lands and (2) the percentage of an individual State's area that is comprised of Federal public lands. Preference is given to those States that are "behind" in their fair share of the funding.
2. Leveraging of private or other public funding - Because the annual requests for funding far exceed the available PLH discretionary funds, commitment of other funding sources to complement the requested PLH discretionary funding is an important factor.
3. Expedient completion of project - Preference is also given to requests that will expedite the completion of a viable project over requests for initial funding of a project that is dependent on future commitment of funding before a usable project can be completed. Projects for construction of a usable project are given preference over projects for planning or design. For large-scale projects consideration is given to the State's total funding plan to expedite the completion of the project.
4. Amount of PLH funding - The requested amount of funding is another consideration. For States that have a relatively small amount of Federal public lands, moderately sized (< \$500,000) project requests are given more favorable consideration than projects requiring a large amount of PLH funds.
5. State priorities - For States that submit more than one project, consideration is given to the individual State's priorities.
6. Special or unique Federal public lands transportation needs - This criterion considers those special or unique Federal public lands transportation needs for a particular project that merit additional consideration, or satisfy a particular emphasis area.
7. Congressional direction or guidance - Often Congress specifies in the legislative process that funding be directed to particular projects. Consideration is also given to this direction or guidance provided that the projects meet the statutory eligibility criteria.

SOLICITATION PROCEDURE:

Each year, usually around March, a memorandum is sent from the FHWA Headquarters Office of Program Administration to the FHWA division offices requesting the submission of candidate projects for the following fiscal year's funding. This solicitation is also posted on FHWA's website at <http://www.fhwa.dot.gov/discretionary>. The FHWA division offices provide this solicitation request to the State transportation departments, who are the only agencies that can submit candidates for this program under the provisions of 23 U.S.C. 202(b). The State transportation department coordinates with local and Federal agencies within their State to develop viable candidate projects. The State transportation department submits the candidate applications to the FHWA division office. After the division office has reviewed the submission and ensured that the submission and all applications meet the requirements, they send the applications to the Office of Program Administration in Headquarters. Candidate projects are due in FHWA Headquarters usually in July. The specific timetable for the solicitation process for any particular fiscal year is provided in the solicitation memorandum.

The candidate project applications are reviewed and evaluated by the Office of Program Administration and an allocation plan is prepared for presentation of the candidate projects to the Office of the Federal Highway Administrator, where the final selection of projects for funding is made. The announcement of the selected projects and the allocation of funds is usually accomplished by the middle of November.

SUBMISSION REQUIREMENTS:

Only State transportation departments may submit applications for funding under this program. The application for each project must include the following information (16 items) so that a proper evaluation may be made of all candidate projects. Those applications that do not include these items are incomplete and will not be considered in the evaluation and selection process. The application for each project must be submitted electronically in MS Word format, and be limited to two pages.

1. **State** in which the project is located.
2. **U.S. Congressional District No.(s)** in which the project is located. This is the U.S. Congressional District not the State district.
3. **U.S. Congressional District Member's Name(s)**. This is the U.S. Congressional District representative, not the State legislature.
4. **Project Title** - This should be a very short project description that readily identifies the project.
5. **Project Location** - Describe the specific location of the project, including route number and termini, if applicable. Also include the county or other appropriate local jurisdiction in which the project is located.
6. **Proposed Work** - Describe the project work that is to be completed under this particular request, and whether this is a complete project or part of a larger project.
7. **Public Lands Category** - Specify what Federal public lands are being served by the project and whether the project is within, adjacent to, or provides access to these Federal public lands. State or local public lands do not make a project eligible, and should not be included here. Also identify the public lands highway (forest road or any highway through Federal land), which is the highway that is open to free use by the public that qualifies the proposed work for funding under this PLH discretionary program.

8. **Project Purpose & Benefits** - The States' submission should show how the proposed project meets the Federal land and resource management needs in the State. This should include a list of the needs for the project and how each of those needs will be addressed by completion of the project. Particular attention should be given to how the proposed project will benefit access to Federal public lands, as well as other transportation benefits that will result from completion of the project. Other benefits may include improved public safety, economic development, community enhancement, etc. Specifics, such as anticipated reductions in accident rates, etc. should be provided if available.
9. **Planning and Coordination** - For the proposed project, describe the coordination with and input from the various Federal land management, State, and metropolitan planning agencies involved. Section 204(a) of Title 23, United States Code, as amended, requires all regionally significant Federal lands highways program projects to be developed in cooperation with States and metropolitan planning organizations, and included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.
10. **Current and Future Traffic** - For highway projects provide the current and design year traffic volumes. For other facilities, such as visitor centers or pedestrian facilities, provide information on current and projected users of the facility.
11. **Project Administration** - Indicate whether the project is being administered by the State transportation agency, a county or other local jurisdiction, a Federal Lands Highway division of FHWA, or another Federal agency. This information is needed to determine to whom to allocate the funds if the project is selected for funding. Since only applications for projects that are ready to go should be submitted, this information should be known at the time the application is submitted.
12. **Amount of Federal PLH Discretionary Funds Requested** - Indicate the amount of Federal PLH discretionary funds being requested for the fiscal year. Candidates should only be submitted from projects that are ready to advance in that fiscal year. If a State is willing to accept partial funding of the request, that amount should also be indicated, and should be based upon the ability to fashion a project that is ready to advance in the fiscal year with that amount of funding. Sometimes partial funding of requests is utilized to provide funding to more projects, since the requests far exceed the funding available.
13. **Commitment of Other Funds** - Indicate the amounts and sources of any private or other public funding being provided as part of this project. Only indicate those amounts of funding that are firm and documented commitments. Do not include funding that was provided for previous projects or previous or future phases of work. Only the committed funding to go with this fiscal year's PLH discretionary request is to be included. Only specific amounts with the source identified will be considered in the evaluation process.
14. **Previous PLH Discretionary Funding** - Indicate the amount and fiscal year of any previous PLH discretionary funds received for this project. Only include previous PLH discretionary funds, not other funding sources.
15. **Future Funding Needs** - Indicate the estimated future funding needs for the project, including anticipated requests for additional PLH discretionary funding and the items of work for which the funds are needed. For example, if the current request is for design work or an initial phase of construction, funding needs for future construction should be included.

16. **Project Schedule** - The anticipated project schedule (assuming the requested PLH discretionary funding is provided) is required. The schedule should show how the work will be commenced in the fiscal year for which the funds are being requested. Applications should only be submitted for projects that are ready to advance if the funding request is met.

If the State desires to submit additional information, such as maps, pictures, copies of support letters etc., those items must be submitted by hard copy to the FHWA division office, who will submit them to the Office of Program Administration. This additional information should be identified by the State and Project Title that matches items 1 and 4 of the electronic application. These additional items are not required and are not to be sent electronically. Any support letters should be addressed to the Federal Highway Administrator, who is the official ultimately responsible for selecting projects for funding.